



December 13, 1999

Mr. Mike Regan  
Acting Administrator  
Texas Funeral Service Commission  
510 S. Congress Ave., Suite 706  
Austin, Texas 78704-1716

OR99-3608

Dear Mr. Regan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request for a decision was assigned ID# 130200.

The Texas Funeral Service Commission ("TFSC") received a request for information pertaining to any and all applications received for investigator or inspector positions for TFSC; any and all applications, memos, test results, correspondence or other materials relating to an individual applicant; correspondence received by TFSC from Representative Harold Dutton; and any and all requirements for applicants to be considered for employment as an investigator or inspector for TFSC. You have provided this office with copies of the documents that you have released in response to the request. You have also provided representative samples of documents to which you claim section 552.101 of the Government Code applies with regard to the social security numbers of applicants for employment.<sup>1</sup> We have reviewed the documents you have submitted and considered the exception you claim.

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from

---

<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* There is no basis for concluding that the social security numbers are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Public Information Act. However, it should be noted that section 552.353 of the Public Information Act does impose criminal penalties for the release of confidential information. Therefore, prior to releasing any social security number information, you should determine if such information was obtained or is maintained by TFSC in accordance with any provision of law enacted on or after October 1, 1990.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

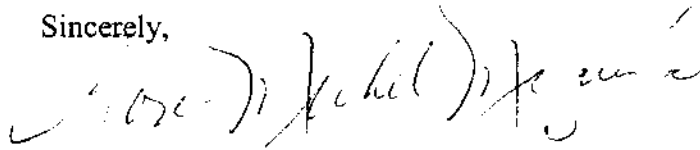
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental

body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose-Michel Munguía", written over a horizontal line.

Rose-Michel Munguía  
Assistant Attorney General  
Open Records Division

RMM/ch

Ref: ID# 130200

Enclosures: Submitted documents

cc: Mr. Robert Bryce  
Austin American-Statesman  
P.O. Box 49066  
Austin, Texas 78765  
(w/o enclosures)